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RIGHT OF PEOPLES TO SELF-DETERMINATION

Letter dated 7 October 1992 from the Chargé d'affaires a.i.
of the Permanent Mission of Yugoslavia to the United Nations
addressed to the Secretary-General

I have the honour to transmit, enclosed herewith, the reply of the Government of the Federal Republic of Yugoslavia regarding the report submitted by the Special Rapporteur of the Commission on Human Rights, Mr. E. Ballesteros, on the question of the use of mercenaries, circulated as a document of the General Assembly (A/47/412), in particular its part relating to the territory of the former Yugoslavia.

I have to take this opportunity to express my surprise and dissatisfaction over the one-sided approach of the Special Rapporteur towards the situation in the former Yugoslavia and his assessments and conclusions on political aspects of the crisis in Yugoslavia contained in chapter V of his report ("Presence of mercenaries in the former Yugoslavia").

Such presentation is in direct contravention of the basic goal that the report is supposed to achieve - to provide unbiased and objective information on the use of mercenaries in the territory of the former Yugoslavia.

I should be grateful if you would have the present letter and its appendices circulated as a document of the General Assembly under item 93, "The right of peoples to self-determination".

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

Annex

REPLY FROM THE GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA TO THE SPECIAL RAPPORTEUR ON THE USE OF MERCENARIES CONCERNING HIS REPORT SUBMITTED TO THE GENERAL ASSEMBLY OF THE UNITED NATIONS AT ITS FORTY-SEVENTH SESSION

The Government of the Federal Republic of Yugoslavia has carefully examined the report submitted by the Special Rapporteur on the use of mercenaries of the Commission on Human Rights, Mr. E. Ballesteros, circulated as a document of the General Assembly (A/47/412), in particular its part relating to the territory of the former Yugoslavia.

Despite the fact that the report contains various pieces of information on the overall situation in the territory of the former Yugoslavia, we must note with regret that the cited information and assessments made give a one-sided picture of the situation and put the blame, directly or indirectly, mainly on the former Yugoslav National Army and the Serbian side. Furthermore, the chapter entitled "Presence of mercenaries in the former Yugoslavia" is mostly devoted to the political aspects of the Yugoslav crisis and to the war waged in that territory, while the question of the use of mercenaries, which is the Special Rapporteur's main mandate, has been given very little attention.

The use of mercenaries in the Yugoslav conflict has been dealt with in a manner not indicating the side they are fighting for. We are of the opinion that the Special Rapporteur should pay much more attention to this question in his next report, making a clear distinction between mercenaries and individuals that he termed "noble international combatants for peace". The Federal Republic of Yugoslavia is especially interested in the further and precise elaboration of these two notions because, as in the past, it most strongly condemns any recruitment, use, financing and training of mercenaries wherever this may occur.

Although the Special Rapporteur says in his report that he has requested detailed information on the subject from all parties involved, he made no mention of any replies received, including the reply sent to him by the Federal Republic of Yugoslavia on 10 August 1992. Nor did he take into consideration the information transmitted to him concerning the use of mercenaries within the Croatian and Muslim forces in Bosnia and Herzegovina, which is important in order to get an objective picture of the situation. After all, even the latest report (S/24600) of the Secretary-General on Yugoslavia reflects the same information.

We take this opportunity to draw attention to a number of one-sided assessments, unsubstantiated statements and arbitrary charges against Serbia and Montenegro, which are even being accused of having declared a war on Croatia and Bosnia and Herzegovina. Besides the fact that these and similar allegations are wholly untrue and that such a position has not been taken by

any United Nations body or agency, it seems to us that the consideration of the background to, and other aspects of, the Yugoslav crisis other than the use of mercenaries, are not within the immediate mandate of the Special Rapporteur. We understand that, in his investigation of the use of mercenaries, the Special Rapporteur has to make use also of a wider range of information relating to the tragic events in the territory of the former Yugoslavia. However, we object to his using, in the paragraphs dealing with the war in Croatia, only facts provided by the Croatian Ministry of Information, without mentioning at all the casualties inflicted upon the Serbs living in Croatia and the ethnic cleansing perpetrated against them. Thus, for instance, the Special Rapporteur did not take into account the reply, dated 17 July 1992, from the Government of the Federal Republic of Yugoslavia to the Special Rapporteur on extrajudicial summary and arbitrary executions, concerning the three Croatian soldiers referred to in paragraph 98 of the report, who were tried for the gravest war crimes in the Federal Republic of Yugoslavia.

Similarly, in the context of the armed conflict in Bosnia and Herzegovina, there is no mention of the suffering, losses and atrocities committed against the Serbian people by the Muslim and Croatian forces, despite numerous communications and appeals addressed by the Bosnian Serbs to the United Nations and other international organizations. The Yugoslav National Army continues to be accused of provoking military conflicts, although the last Yugoslav Army soldier left Bosnia and Herzegovina on 19 May 1992, immediately after the Federal Republic of Yugoslavia was proclaimed.

The Federal Republic of Yugoslavia attributes special significance to self-determination within which the General Assembly considers the specific problem of the use of mercenaries. In his report, the Special Rapporteur gives utmost importance to the self-determination of Croatia and Bosnia and Herzegovina, while the right to self-determination of Serbs, as a constituent people both in Croatia and Bosnia and Herzegovina, is completely ignored. It is also stated that the war against Croatia and Bosnia and Herzegovina is a consequence of non-recognition of their independence and territorial integrity by Serbia and Montenegro, which is totally false. The Secretary-General himself stated in his first report on Yugoslavia (S/23169) that one of the main causes of the conflict in the territory of the former Socialist Federal Republic of Yugoslavia was the unilateral proclamation of independence by Slovenia and Croatia. In fact, the Federal Republic of Yugoslavia recognizes the right to self-determination of all peoples in the territory of the former Yugoslavia, as repeatedly stressed in the official statements of the Government and the Parliament of the Federal Republic of Yugoslavia. We recall that the Federal Republic of Yugoslavia has unilaterally recognized Slovenia.

We believe that in preparing his report to the Commission on Human Rights in January 1993, the Special Rapporteur will take into consideration and consult a larger number of sources. Therefore, please find enclosed herewith two appendices. We draw special attention to new pieces of information on the presence of foreigners in the military and paramilitary forces of Croatia and Bosnia and Herzegovina.

Appendix I

FOREIGNERS IN MILITARY AND PARAMILITARY FORCES IN CROATIA AND BOSNIA AND HERZEGOVINA

Since the outset of the armed conflict in Yugoslavia, Croatia has recruited a considerable number of foreign mercenaries, instructors and various experts for its armed units.

The following are some most characteristic examples.

- On 28 September 1991, a group of 51 Filipinos, including two persons from Jamaica, arrived at Sarajevo airport.

- On 7 October 1991, an aircraft coming from Rome landed at the airport in Tivat. The Philippine citizens wishing to join the Croatian Army were aboard that flight. The aircraft was sent back to Rome.

- Early in October 1991, over 100 Argentine citizens of Croatian origin, but also born Argentines, came to Croatia to sign up with Croatian armed forces.

- In late October 1991, a group of Ukrainians contacted the Yugoslav Embassy in Moscow requesting a Yugoslav visa to travel to Croatia and join irregulars there. The office of the firm "Astra" in Moscow is the headquarters for the recruitment and sending of mercenaries to Croatia.

- Late in October 1991, the Yugoslav Embassy in London received a letter from a Stephen Schapke offering 250 former United States paratroopers ready to fight for any side in Yugoslavia.

- At the beginning of November 1991, 20 mercenaries were recruited in the Netherlands and sent to Croatia to join its irregulars.

- For several months during 1991, Colonel Gyla Attila of the Hungarian Army was attached to the Croatian National Guard (CNG) headquarters for Slavonia, Baranja and Western Srem. He was in charge of planning and undertaking combat activities of CNG units in this area.

- At the end of 1991, the Osijek operations zone of the Croatian Army had an international brigade established by Eduardo Rosses Flores, the Zagreb-based correspondent of the Catalonian paper "La vanguardia". The brigade was composed of former French Legion combatants and mercenaries from the wars in the Middle East and Latin America. It often operated on its own in the region of Eastern Slavonia and committed massacres against Serbian civilians in the villages of Divoš, Ernestinovo, Tenjski Antunovac and others.

- The German citizen Kurt (Hans Wilhelm) Reisner, an active member of the Osijek International Brigade and Colton Perry, an American citizen,

Lieutenant and Commander of the Croatian Army's 131st Reconnaissance Squad stationed at Županja, were identified in the detention camp in Sremska Mitrovica.

- A number of foreign nationals fought among Croatian National Guards in the battle of Vukovar. They were a German citizen, Harlan von Besinger, and a French citizen, Jean Nicolier.

- A Swiss national and the Dutch citizen Gerrit Bronk were killed near Okučani in November 1991 and the British citizens Edward White and Christopher Hencok, both belonging to the International Brigade, were shot near Tenjski Antunovac.

- The so-called First All-Croatian Combat Brigade stationed at Split and tasked with carrying out subversive sea operations has 20 Italian citizens in its ranks.

- The Croatian and Muslim sides in Bosnia and Herzegovina also have a considerable number of foreigners among their forces. Thus, for example, two American citizens were captured as members of the Croatian Army in the territory of Bosnia and Herzegovina in July 1992.

- To the extent to which offensive operations of the Muslim forces have intensified in Bosnia and Herzegovina, there has been an increasing number of citizens from Islamic States fighting in their ranks. Even humanitarian assistance shipped via airports in Sarajevo, Zagreb and Split is used to bring them in.

- On 10 August 1992, a transportation aircraft of the Iranian Air Force landed at Sarajevo airport beyond the aircraft getting in food and medicine. The trucks of Green Berets (which burst onto the runway by breaking the barrier) loaded the weapons and military equipment and an unidentified number of men on board this flight. The trucks left the airport without being inspected by UNPROFOR personnel.

- It is common knowledge that some 1,300 mujahidins coming from a number of Islamic countries (the Islamic Republic of Iran, Saudi Arabia, Jordan, Morocco, Turkey, the Sudan and others) are fighting on the Muslim side in Bosnia and Herzegovina. Information is available that new contingents of Islamic fighters are being prepared to join the Muslims of Bosnia and Herzegovina. According to the evidence gathered so far, they took part in massacres committed against Serb civilians, some of whom were literally butchered and molested (in the town of Goražde and villages of Milići and Teslić).

- Muslims are freely recruited and trained in Western Europe and sent in groups to Bosnia and Herzegovina. Humanitarian relief corridors leading through Croatia are mostly used for such operations.

- From among the many Muslim refugees from Bosnia and Herzegovina trying to reach Western Europe through Croatia, the Croatian authorities forcibly select combat-ready males, train them in two field camps near Zagreb and send them to the units of the Muslim-Croatian forces in Bosnia and Herzegovina.

- A large number of Europeans from several countries are fighting on the side of the Muslim-Croatian coalition in Bosnia and Herzegovina. Thus, for example, late in August 1992 the Bosnian Serb forces took one German, a Frenchman and an Englishman prisoner in combat in north-eastern Bosnia.

- Pilots and other military specialists are being trained in several camps in Hungary, Austria and Germany for the purposes of the Croatian armed forces and civil defence of Bosnia and Herzegovina loyal to the incomplete Presidency of this former Yugoslav Republic.

Appendix II

GENESIS OF THE YUGOSLAV CRISIS

Yugoslavia, which existed for 74 years, came into being as a State of three peoples (Serbs, Croats and Slovenes) in 1918 and after the Second World War emerged as a federation of six equal nations (Montenegrins, Croats, Macedonians, Muslims, Slovenes and Serbs) including persons belonging to a number of ethnic minorities. During the common life of the Yugoslav peoples, deep and permanent economic, cultural, human and other ties were forged and their severance resulted in the tragic conflicts lasting even today.

Four Yugoslav republics, Slovenia, Croatia, Bosnia-Herzegovina and Macedonia, proclaimed their independence in 1991 claiming the right of any people to self-determination, and they unilaterally and forcibly seceded in violation of the constitutional provisions of their common State and without any agreement being reached to that effect within the legitimate federal authorities in which they were also equally represented. The Yugoslav Presidency, Assembly, Federal Government and the Constitutional Court of Yugoslavia declared those acts of unilateral secession unconstitutional and null and void, directing the authorities of those republics to solve all issues in a democratic manner provided for by the Constitution, together with other constituent members of the federation and with full respect for the right of all its peoples to self-determination.

It was precisely disrespect for, or denial of, the right of all peoples to self-determination that brought about tragic conflicts in Yugoslavia. Non-compliance with this principle at the moment when the future of Yugoslavia was decided, primarily in Croatia and Bosnia-Herzegovina where the desire of Serbs to remain a common State was ignored and where solutions contrary to their aspirations were imposed on them, caused justified disquiet, even fear, among the Serbian people. This is understandable if it is remembered that, half a century ago, the Serbian people in that region was the victim of the horrible genocide carried out by pro-Nazi Croatian and Muslim forces. Parallel with the nationalistic bids aimed at Croatia's and Bosnia-Herzegovina's secession from Yugoslavia began a relentless media and political campaign, including pressures to condemn all Serbs opposed to such an act. The propaganda campaign eventually brought about international recognition of the authorities in Croatia and Bosnia-Herzegovina, also against the will of their Serbs and without their participation. The wish of one people, the Serbian, to exercise its right to self-determination within Croatia and Bosnia-Herzegovina was not taken into account, while, on the other hand, this right was recognized to the Muslim and Croatian peoples. This was contrary both to the principles of self-determination established by the United Nations and those embodied in the International Convention on the Elimination of All Forms of Racial Discrimination and in many other international legal instruments.

Having declared independence, the authorities of the Republic of Slovenia forcibly assumed the functions belonging to the federal authorities in Slovenian territory (military, customs, inspection services, etc.). The Yugoslav Government requested the federal authorities to continue to discharge their functions on international borders of this Republic, and the High Command Headquarters of the Yugoslav National Army decided to send 2,000 soldiers to assist those authorities in discharging their functions on the border.

By laying siege to federal Army garrisons and shooting at the military columns moving towards the border, the units of Slovenia's territorial defence provoked an armed conflict in which four fifths of a toll of 60 were federal Army soldiers who had received orders to re-establish control over border posts without shooting back. The Republic of Slovenia used this conflict and presented it to the international public as a war of aggression against it checked by the Slovenian units (which is devoid of any logic considering that a several hundred thousand-strong federal Army possessing most sophisticated weapons could have very easily seized control of the whole territory of the Republic).

In order to ensure a peaceful settlement of the Yugoslav crisis, i.e. to avoid new armed conflicts and destruction, the Presidency of the Socialist Federal Republic of Yugoslavia decided to dislocate the Army units that were in Slovenia, without prejudice to future relations in the country. The Constitutional Court of Yugoslavia challenged the decision from the point of view of its constitutionality.

Problems arose in Croatia as early as 1990 when the new authorities of the Republic of Croatia adopted a new Constitution which, unlike the previous one, dropped out any reference to the Serbian people living in Croatia as one of its two constituent peoples. Alongside the various pressures brought to bear on Serbs, the Croatian authorities began to smuggle in large amounts of weapons, to arm Croats who were members of the ruling HDZ (Croatian Democratic Union) party, and undertook hostile actions against the Serbian population (Plitvice, Pakrac, Borovo) on religious and public holidays. This left no doubt with the Serbian people that the Croatian ruling party was preparing a new genocide of Serbs modelled after the one perpetrated in the pro-Nazi Ustashi "NDH" (Independent State of Croatia) during the Second World War.

The Serbian people therefore began defending themselves against the armed hostilities, to which the Croatian authorities responded by introducing ever greater police forces and subsequently irregular forces, formed in the meantime, along with more widespread actions of forced "ethnic cleansing" of Serbian territories. For this reason, the highest authorities of the Socialist Federal Republic of Yugoslavia, in which Croatia was also represented, decided to use the Yugoslav National Army to draw the parties to the conflict apart until a political solution was achieved. However, in order to avoid a political settlement, the Croatian side continuously intensified conflicts while advocating secession so that it could, as an independent State, legalize and increase arms imports and get "a free hand" for the final

showdown with the Serbian people. The protection of the Serbian population who defended their homes and territories was precisely the reason for dispatching the United Nations peace-keeping force which was named UNPROFOR (United Nations Protection Force) for its protective function.

Under the Constitution, Bosnia-Herzegovina is a State of three equal constituent peoples - Muslims, Serbs and Croats - which adopt decisions by consensus in their highest organs of power. However, in early March 1992, a referendum on independence took place in Bosnia-Herzegovina. The majority of Serbs, who account for over one third of the total population of the Republic, refused to go to the referendum because that idea of independence of Bosnia-Herzegovina was unacceptable to them. The tension existing during the referendum culminated in the murder of a Serb at his son's wedding ceremony in front of a church at Baščaršija in Sarajevo.

From the very outbreak of the war in Bosnia-Herzegovina, Serbs have been subject not only to armed attacks but also the unprecedented propaganda campaign unleashed on the international scene. That campaign has gone as far as to accuse even the neighbouring Federal Republic of Yugoslavia of aggression only because Serbs live in it. No explanation has been given to the effect that Serbs in Bosnia-Herzegovina have lived there for centuries, meaning that they did not come there yesterday nor from Serbia or the Federal Republic of Yugoslavia. Serbs are, like Muslims and Croats, a constituent people of Bosnia-Herzegovina and as such enjoy the same rights as the other two. Denial of the right of the Serbian people to self-determination generated a bloody civil war which is, unfortunately, still going on. The Yugoslav Army, which was trying to keep the warring parties separated and to create conditions for a peaceful and negotiated settlement among the three parties, withdrew from Bosnia-Herzegovina under the decision of the highest authorities of the Federal Republic of Yugoslavia and today there is not a single soldier of the Federal Republic of Yugoslavia in that republic.

It is the vital interest of the Government and people of the Federal Republic of Yugoslavia to reach, as soon as possible, an overall and just settlement in the whole territory and to solve, urgently and democratically, problems existing between the States that have emerged out of the former Socialist Federal Republic of Yugoslavia. Accordingly, the Federal Republic of Yugoslavia has taken many steps internationally, and its determination to achieve peace, as expressed at the Conference on Yugoslavia which opened in London and continued its work in groups at Geneva, is motivated by its commitment that this is the only viable way to overcome tragic conflicts in the territory of the former Socialist Federal Republic of Yugoslavia.

The international community has been actively involved in the solution of the Yugoslav crisis from its very beginning. Numerous documents of the United Nations, the Conference on Security and Cooperation in Europe and other international forums contain many assessments and observations concerning the evolution of the Yugoslav crisis and indicating that one side alone cannot be blamed for the tragic events. In this context, reports by the Secretary-General of the United Nations are particularly objective.

In addition to the efforts aimed at defusing the conflicts, the world community has, however, made a number of wrong moves, such as the recognition of sovereignty of former Yugoslav republics prior to reaching a comprehensive solution of the Yugoslav crisis, which had an adverse impact on developments in Yugoslavia. Furthermore, the drastic, unjust and unwarranted punishment of the Federal Republic of Yugoslavia by imposing sanctions on it that are unprecedented in relations among States, cannot in any way contribute to the settlement of the Yugoslav crisis. The international community should adopt an identical approach to all parties responsible in the conflict, not siding with any of them, regardless of the strategic interests or ethnic or religious origin. Only in this way will it be able to offer its full contribution to solutions which the Yugoslav peoples themselves should negotiate among one another.